

UNITED STATES DISTRICT COURT
10TH DISTRICT OF UTAH

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

JUL - 8 2024

BY GARY P. SERDAR
CLERK OF COURT
DEPUTY CLERK

UNITED STATES OF AMERICA

-VS-

TIMOTHY WAYNE HARNER

case No. 2:20CR00385

MOTION To SUSPEND SENTENCE

Case: 2:24-cv-00570

Assigned To : Parrish, Jill N.

Assign. Date : 8/8/2024

Description: Harner v. USA

Now comes, Defendant TIMOTHY WAYNE HARNER, filing Pro Se, and Without Counsel, who was sentenced October 16, 2023 to the term of 10 years in Federal Prison with a five year mandatory minimum upon the charge of Possession of child Pornography, and is respectfully requesting this Honorable Court to suspend his sentence for the following reasons:

Ground One,

Around August 2023, Mr. Harner has become aware of the falsified information within the criminal history of his Pre-sentence Investigation Report (Paragraphs 46 to 48 and shown in EXHIBIT A and B) that was completed by Ben A. Graham of the U.S. Probation office, which, Mr. Harner's court Appointed Attorney R. Blake Hamilton was informed of this matter and has failed to address or correct this matter, denying him of his Sixth Amendment Right of an adequate assistance of counsel, and allowing Mr. Harner to keep on being persecuted over many years over an sex Based Discrimination and sexual Harassment to spread to the Utah U.S. District Court, U.S. Probation and into the Federal Bureau of Prisons on a "Uncorrectable Read-only data base", denying Mr. Harner of his Fifth and Fourteenth Amendment of being innocent and the equal Protection as the other Person, keeping him under this persecution and sex Based Discrimination, allowing him

To be Tried/Accused of the same offence over and over again, on an issues where he must be considered as innocent, which would also be an violation of the Eighth Amendment making it an crule and unusual Punishment (sentence) with higher points in both court and in Prison, as well as receiving inadequate diagnosis that would not stay in the court of law and accused of them acts...

Here, The Damage has been done and cannot be fully corrected.

Ground TWO,

Around January 2021, Mr. Harner did inform his court appointed Attorney R. Blake Hamilton that he is mentally between 10 to 12 years old and of his mental impairments which was stated in both the Vedio Court Proceeding and in his filed court Document. There was 4 Evaluations that was completed, which all came back with the same diagnosis, but, he has failed to question about Mr. Harner's "Mental Age" or defending his mental impairments, denying Mr. Harner of his Sixth Amendment Right to adequate assistance of counsel.

Mr. Harner has been diagnosed, showing a 24 year history for the UTAH U.S. District court of: Borderline Intellectual Functioning (which holds the "Mental Age" of 11 to 13 years old, and also formally known as Mentally Retarded) and with: Autism Spectrum Disorder (which shares the same characteristic with juveniles), and has a marked impairment of the Failure to develop age appropriate peer relationship, which would make Mr. Harner constitutionally different from adult, denying Mr. Harner of his Fifth and Fourteenth Amendment of being Equally the same as other at the same developmental level, and that, Mr. Harner has not acted out any different in his Present charge or in his Prior charges as what any other 10 to 13 year old would do, which, No court would sentence a 10 to 13 year old to an adult Prison, making it a violation of the Eighth Amendment, crule and unusual Punishment.

Here, we have an mentally impaired person who is in a Adult Prison on a sex offence, who is on Blood Thinners, in other words, an anticoagulated,

and that, if he should be pushed around, get hit, etc, and get injured, Mr. Harner can bleed out, making it a life threatening matter. Also, due to Mr. Harner having "Borderline Intellectual Functioning" and being cognitively of a Fourth and Fifth Grade Educational level, Mr. Harner may not be eligible for the BOP Sex offender Treatment, as shown in Page-Two of EXHIBIT-C.

Ground Three,

Mr. Harner has been unjustly forced to pay \$9000. in Restitution to 3 non-direct said victims at \$3000. each, in which, these 3 non-direct said victims have all met their cap and have been fully compensated for, denying Mr. Harner Fifth and Fourteenth Amendment of being equally protected from those who do not have to pay this restitution, making it an cruel and unusual Punishment under the Eighth Amendment.

Ground Four,

Mr. Harner is a care giver for an 75 year old by The Name of Arven Moore (744 Royal St, Helper U.T. 84526, (435) 630-7397) who lives alone, and has Heart Problems, going Blinde, and just been diagnosed with Kidney cancers who is in need of Mr. Harner to return home to help him out around the house.

Mr. Harner was arrested on August 13, 2020, and has already served 47 months to date, with an Home Detention Eligibility Date of August 19, 2028, which, Mr. Harner has already served half of this sentence, and respectfully request that this sentence be suspended due to the above matters.

Date: 7-4-2024

Respectfully Submitted

Timothy Harner
 19970-509

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